



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

TEXAS HEALTH LLC  
5445 LA SIERRA DRIVE SUITE 204  
DALLAS TX 75231

#### **Respondent Name**

DALLAS ISD

#### **Carrier's Austin Representative Box**

Box Number 19

#### **MFDR Tracking Number**

M4-09-9590-01

#### **MFDR Date Received**

JUNE 23, 2009

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "it is our position that DISD has established an unfair and unreasonable time frame in paying for the services that were medically necessary and rendered to [Claimant]."

**Amount in Dispute:** \$1,559.57

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The disputed procedure codes were for psychiatric treatment and all bills should have reflected a psychiatric diagnosis. In addition, Ms. Jones was not a licensed as a professional counselor for dates of service November 20, 2008 through March 26, 2009. At this time no additional allowance is recommended."

**Response Submitted by:** Argus

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 20, 2008	CPT Code 90801 (x5)	\$195.71	\$195.71
December 11, 2008 December 17, 2008 December 22, 2008 December 30, 2008 January 7, 2009 January 15, 2009 March 12, 2009 March 16, 2009 March 20, 2009 April 2, 2009	CPT Code 90806	\$115.06/date	\$1,150.60
January 19, 2009	CPT Code 96151 (x2)	\$65.00	\$65.00
March 16, 2009 March 20, 2009 March 26, 2009	CPT Code 90901-59 (x12)	\$49.42/date	\$148.26

TOTAL		\$1,559.57	\$1,559.57
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## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out reimbursement guideline for medical professional services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

#### Explanation of benefits

- 11A-The diagnosis is inconsistent with the procedure. 'The Medicare Psychiatric Manual requires the diagnosis to be coded with the highest level of specificity. The primary diagnosis as listed in the med records is not the same as listed on the CMS 1500.
- 97H-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated. \* Service(s)/Procedure is included in the value of another service/procedure billed on the same date.
- 193G, 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. 'Medical records were not submitted with reconsideration request.'

### **Issues**

1. Did the response to request for medical fee dispute resolution comply with 28 Texas Administrative Code §133.307(d)(2)(B)?
2. Does the documentation support the denial of reimbursement for the disputed services based upon reason code 11A?
3. Is the requestor entitled to reimbursement?

### **Findings**

1. The respondent states in the position summary that "Ms. Jones was not a licensed as a professional counselor for dates of service November 20, 2008 through March 26, 2009. At this time no additional allowance is recommended."

Per 28 Texas Administrative Code §133.307(d)(2)(B) states in part "The response shall address only those denial reasons presented to the requestor prior to the date the request for MDR was filed with the Division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

The Division finds that the submitted documentation does not support the respondent's position that the issue of Ms. Jones license was raised prior to the request for MDR; therefore, the Division will not consider this defense in this decision.

2. According to the submitted explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "11A".

A review of the December 4, 2008, preauthorization report finds that the respondent gave preauthorization approval for "INDIVIDUAL PSYCHOTHERAPY 1XWKX6WEEKS" for the diagnosis "847.0 SPRAIN/STRAIN NECK," "722.0 DSPLCMNT, CERVICAL DISC W/O MYELP," "722.71 DISORDER, CERVICAL DISC DSPLCMNT, CERVICAL DISC W/O MYELP (840.9)." The March 10, 2009 preauthorization report authorized "INDIVIDUAL PSYCHOTHERAPY 1XWKX4WKS & BIOFEEDBACK TRAINING 1XWKX4WKS (EMG, PNG, TEMP)" for the same diagnosis.

A review of the medical records finds the diagnosis listed supports the diagnosis preauthorized and billed; therefore, the respondent's denial based upon "11A" is not supported.

3. Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
  - (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.
  - (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage

adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

- CPT Code 90801 is defined as "Psychiatric diagnostic interview examination".

The 2008 DWC conversion factor for this service is 52.83.

The Medicare Conversion Factor is 38.087

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75231, which is located in Dallas County.

The Medicare participating amount for code 90801 in Dallas County is \$149.71.

Using the above formula, the MAR is \$207.66.

The respondent paid \$0.00. The requestor is seeking \$195.71, as a result, this amount is recommended.

- CPT Code 90806 is defined as "Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 45 to 50 minutes face-to-face with the patient."

For dates of service in 2008:

The Medicare participating amount for code 90806 in Dallas County is \$93.10 in 2008.

Using the above formula, the MAR is \$129.14.

The respondent paid \$0.00. The requestor is seeking \$115.06 for each date of service in 2008. The requestor billed four dates; therefore,  $\$115.06 \times 4 = \$460.24$ , as a result, this amount is recommended.

The Medicare participating amount for code 90806 in Dallas County is \$93.10 in 2008.

Using the above formula, the MAR is \$129.14.

The respondent paid \$0.00. The requestor is seeking \$115.06 for each date of service in 2008. The requestor billed four dates; therefore,  $\$115.06 \times 4 = \$460.24$ , as a result, this amount is recommended.

For dates of service in 2009:

The 2009 DWC conversion factor for this service is 53.68.

The Medicare Conversion Factor is 36.0666

The Medicare participating amount for code 90806 in Dallas County is \$94.36 in 2009.

Using the above formula, the MAR is \$140.44.

The respondent paid \$0.00. The requestor is seeking \$115.06 for each date of service in 2009\$. The requestor billed for six dates; therefore,  $\$115.06 \times 6 = \$690.36$ , as a result, this amount is recommended.

- CPT Code 96151 is defined as "Health and behavior assessment (eg, health-focused clinical interview, behavioral observations, psychophysiological monitoring, health-oriented questionnaires), each 15 minutes face-to-face with the patient; re-assessment."

The 2009 DWC conversion factor for this service is 53.68.

The Medicare Conversion Factor is 36.0666

The Medicare participating amount for code 96151 in Dallas County is \$22.20/15 minutes in 2009.

Using the above formula, the MAR is \$33.04/15 minutes. The requestor billed for 2 units; therefore,  $\$33.04 \times 2 = \$66.08$

The respondent paid \$0.00. The requestor is seeking \$65.00, as a result, this amount is

recommended.

- CPT Code 90901 is defined as "Biofeedback training by any modality."

The 2009 DWC conversion factor for this service is 53.68.

The Medicare Conversion Factor is 36.0666

The Medicare participating amount for code 90901 in Dallas County is \$33.77 minutes in 2009.

Using the above formula, the MAR is \$50.26. The requestor billed for 12 units, however, is only seeking dispute resolution for one modality.

The respondent paid \$0.00. The requestor is seeking \$49.42 for each date. The requestor billed code 90901 on three dates; therefore,  $\$49.42 \times 3 = \$148.26$ , as a result, this amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$ 1,559.57.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$1,559.57 plus applicable accrued interest per 28 Texas Administrative Code §134.130 , due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

08/15/2013  
\_\_\_\_\_  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a *certificate of service demonstrating that the request has been sent to the other party.***

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**